

REMARKS/ARGUMENTS

Claims 1-28 are pending in this application. Claims 1, 3-28 stand rejected under 35 U.S.C. §§ 112, 101 and 103. Claim 2 has been cancelled and claims 1, 3, 7, 11-15, 20 and 24 have been amended to more clearly define Applicants' invention.

Applicants respectfully request reconsideration and allowance in light of the present amendments and comments.

Rejection of Claims under 35 U.S.C. § 112, ¶ 2

The Office Action rejected each of the claims under 35 U.S.C. § 112, ¶ 2. Claims 1, 3, 7, 11-15, 20 and 24 have been amended to more clearly define the invention. Applicants believe such amendments address each of the rejections cited in the Office Action.

Rejection of Claims under 35 U.S.C. § 101

The Office Action rejected each of the claims under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Each of the independent claims, claims 1 and 13, have now been amended to recite automatically transmitting an alert signal if the utility cost in at least one time interval reaches a threshold value. It is respectfully submitted that transmitting an "alert signal" is a useful, concrete and tangible result, and therefore, the claims as amended (including the dependent claims that depend on independent claims 1 and 13) comprise statutory subject matter under 35 U.S.C. § 101.

Rejection of Claims under 35 U.S.C. § 103

The Office Action rejected claims 1-28 under 35 U.S.C. § 103 as being obvious over U.S. Patent No. 5,289,362 to Liebl et al. ("Liebl"), in further view of U.S. Patent Application No. 2002/0018545 to Crichlow ("Crichlow").

Liebl discloses a device which regulates temperature wherein the user may program different desired temperatures depending upon the relative cost of electricity. (Liebl Abstract). Crichlow discloses a method for monitoring usage of a utility at a remote location.

Each of the independent claims, claims 1 and 13, have now been amended to recite automatically transmitting an alert signal if the utility cost in at least one time interval reaches a threshold value.

The Office Action acknowledges that "Liebl does not explicitly teach automatically alerting an operation of the entity if the running total or cost value in a specific time interval reaches a threshold cost value." (OA ¶ 20). However, the Office Action takes Official Notice that "alerting an operator ... if the running total or cost in a specific time interval reaches a threshold cost value" is well known in the art of energy monitoring systems. (OA ¶ 20).

Applicants respectfully traverse the Office Action's taking Official Notice that sending an alert when utility cost reaches a threshold value is well known in the art of energy monitoring systems. Such an action requires (a) monitoring energy usage, (b) monitoring cost data, (c) calculating a utility cost based on the usage and cost data, and then (d) sending an alert signal. To Applicants' knowledge this is not "well known in the art of energy monitoring systems."

Accordingly, Applicants believe the claims are now clearly distinguished over the prior art and in condition for allowance.


Dependent claims 2-12, and 14-28, depend on independent claims 1 and 13, respectfully, and are believed patentable, *inter alia*, by virtue of such dependency.

In view of the forgoing supporting remarks, Applicants respectfully request allowance of claims 1 and 3-28.

If the Examiner wishes to direct any questions concerning this application to the undersigned Applicants' representative, please call the number indicated below.

Respectfully submitted,

Skadden, Arps, Slate, Meagher & Flom LLP

By 
Andrew F. Strobert, Reg. No. 35,375

Skadden, Arps, Slate, Meagher & Flom LLP
4 Times Square
New York, New York 10036
Tel.: 212-735-3272